

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 1-18 are pending in the application.

In the outstanding Office Action, Claims 1, 5, 9, 10, 14, and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kawamae et al. (U.S. Patent No. 6,578,149, hereinafter referred to as Kawamae) in view of Matsuzaki et al. (U.S. Patent No. 6,058,476, hereinafter referred to as Matsuzaki). However, Claims 2-4, 6-8, 11-13, and 15-17 were indicated as including allowable subject matter if rewritten in independent form.

Applicants respectfully traverse the outstanding ground of rejection because the outstanding Office Action fails to provide a *prima facie* case of obviousness by asserting prior art that, no matter how the prior art references are combined, does not teach every limitation of independent Claims 1, 5, 9, 10, 14 and 18.

To establish a *prima facie* case of obviousness, M.P.E.P. §2143 requires that three criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the references teachings. Second, there must a reasonable expectation of success. Finally, the prior art references must teach or suggest all the claim elements.

Turning now to the rejection of Claim 1, Applicants respectfully submit that the combination of Kawamae and Matsuzaki fails to disclose all of the elements of Claim 1. Claim 1 recites “a first authenticating means for authenticating a first information processing unit.” Claim 1 also requires “a second authentication means for authenticating a second information processing unit or a third information processing unit.” Indeed, because neither

reference discloses authenticating an information processing unit, the combination of Kawamae and Matsuzaki does not disclose authenticating an information processing unit.

On the contrary, Kawamae discloses authenticating a type of recording medium. “The first authenticating unit 4 operates to authenticate a reproduction-dedicated recording medium. The second authenticating unit operates to authenticate a recordable recording medium.... The third authenticating unit operates to authenticate a recordable recording medium....”¹ The recording mediums are not information processing units because the recording medium only stores data.² The first reproducing apparatus operates to transmit the type of the recording medium and scrambled data through the effect of the authenticating unit.³ Thus, the authenticating units of Kawamae only authenticate the type of medium and are not authenticating an information processing unit.

Applicants acknowledge that the Office Action agrees that Kawamae does not disclose key transmission between authenticated information processing units as recited in Claim 1.⁴

The Office Action states that Matsuzaki discloses key transmission between authenticated information processing units and that it would have been obvious to combine Matsuzaki with Kawamae. However, Applicants respectfully submit that Matsuzaki does not disclose key transmission. Claim 1 recites “a transmission control means for controlling the transmission of said contents and said key to said first information processing unit.” On the contrary, Matsuzaki discloses two devices that generate a key to be used between them without transmitting the actual key. The Office Action cites col. 8, line 56 of Matsuzaki for support that Matsuzaki discloses key transmission. This citation only discloses a data transfer key generation unit. It does not disclose transmitting the key to an information processing

¹ Kawamae, col. 3, lines 55-61.

² Kawamae, col. 3, lines 1-4.

³ Kawamae, col. 4, lines 31-34.

⁴ Office Action, page 3.

unit. In fact, the principle operation of Matsuzaki requires that a secret authentication key is commonly retained by the encryption IC's (col. 12 lines 13-15) and thus there is no need to transmit keys. Fig. 3 of Matsuzaki illustrates what information is transferred between first device 51 and second device 52. In steps 9 and 10, which are shown in Fig. 3, a data transfer key K is prepared. The data transfer key K is not transmitted between first device 51 and second device 52. First device 51 and second device 52 are both able to determine the data transfer key K from information previously transmitted between them. Fig. 3 shows C1, C2, RR2, and RR1 being transmitted between first device 51 and second device 52. C1, C2, RR2 and RR1 are not keys. They are part of a challenge/response type authentication protocol.

In view of the above noted distinctions, Applicants respectfully submit that Claim 1 patentably distinguishes over Kawamae et al. in view of Matsuzaki et al.

Claim 5 like Claim 1 recites "...means for authenticating a first information processing unit..." and "...means for controlling the transmission of said contents and said key to said first information processing unit." Applicants respectfully submit that Claim 5 patentably distinguishes over Kawamae et al. in view of Matsuzaki et al. for at least the same reasons as Claim 1.

Claim 9 is similar to Claim 1 in that it recites "...authenticating a first information processing unit..." and "...controlling the transmission of said contents and said key to said first information processing unit." Applicants respectfully submit that Claim 9 patentably distinguishes over Kawamae et al. in view of Matsuzaki et al. for at least the same reasons as Claim 1.

Claims 10, 14 and 18 are similar to Claim 1 in that they recite "...means for authenticating a first information unit..." and "...means for controlling the reception of said contents and said key..." Applicants respectfully submit that Claims 10, 14, and 18

Application No. 09/802,133
Reply to Office Action of July 29, 2004

patentably distinguish over Kawamae et al. in view of Matsuzaki et al. for at least the same reasons as for Claim 1.

Consequently, in view of the above comments, it is respectfully submitted that the outstanding rejection is traversed and that the pending claims are in condition for allowance.

An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number

22850

Tel: (703) 413-3000

Fax: (703) 413 -2220

(OSMMN 06/04)

I:\ATTY\JW\204258US\204258US_AM.DOC